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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/308,435	05/19/1999	HANS CARLSSON	1103326-0560	6135

7470 7590 01/15/2003
WHITE & CASE LLP
PATENT DEPARTMENT
1155 AVENUE OF THE AMERICAS
NEW YORK, NY 10036

EXAMINER

PORTNER, VIRGINIA ALLEN

ART UNIT	PAPER NUMBER
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1645

DATE MAILED: 01/15/2003

17

Please find below and/or attached an Office communication concerning this application or proceeding.

File copy

Advisory Action

Application No.

09/308,435

Applicant(s)

Carlsson et al

Examiner

Partner

Art Unit

1645



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED Oct 7, 2002 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid the abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

THE PERIOD FOR REPLY (check only a) or b))

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. **ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION.** See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☒ A Notice of Appeal was filed on Oct 7, 2002. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
- (a) ☒ they raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ they raise the issue of new matter (see NOTE below);
- (c) ☒ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: see attachment

3. ☒ Applicant's reply has overcome the following rejection(s):
The English translation of the foreign priority document has over come the rejection under 102(a) to Lee et al.

4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because:
the arguments and remarks are directed to claim limitations not entered.

6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.

7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: none

Claim(s) objected to: 17-18 (indicated as allowable), 50-52

Claim(s) rejected: 1-38, 45-49, and 53-60

Claim(s) withdrawn from consideration: _____

8. ☐ The proposed drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.

9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____

10. ☐ Other: _____

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Claims 1-38, 45-60 are pending.

1. Applicant's submission a certified English translation of the Swedish priority document having been received After Final has obviated the rejection of claim 1 under 35 U.S.C. 102(a) as being anticipated by Lee et al (1998).

2. The Amendment After Final submitted October 2, 2002 has not been entered, in light of the amendment of claim 50, necessitating new grounds of rejection not previously made of record. While the proposed amendment of claim 50 sought to obviate an objection to the claim, the amendment would necessitate new grounds of rejection After Final, and therefore the amendment of the claims was not entered as it raises new issues.

Additionally, the proposed amends of claims 49, to no longer depend from claim 38; claims 51 and 59 to recite the phrase "treatment of existing *Helicobacter* infection" with "a *Helicobacter* antigen"; and Claims 52 and 60 to recite the phrase "a *Helicobacter* antigen", would necessitate new grounds of rejection to address issues introduced into the case if the claims were entered.

3. Amendments of the claims which sought to obviate clarity issues under 35 U.S.C. 112, second paragraph, if submitted separately would be entered to obviate these rejections. No proposed amendments of claims 59-60 addressed fully the essential elements and essential methods steps to

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attain the recited intended use of the claimed methods (rejections under 35 U.S.C. 112, second paragraph in paper number 14, paragraph 30, page 12.

4. In light of the claim amendments submitted After Final raising new issues, they have not been entered.

5. Applicant's arguments and remarks were directed to claim limitations not entered. Rejections, made of record in paper number 14, are maintained.

Allowable Subject Matter

6. Claims 17-18 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. The prior art of record does not teach or reasonably suggest the incorporation of a chaotropic agent in to a polymer particle that comprises a water insoluble protein antigen.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ginny Portner whose telephone number is (703)308-7543. The examiner can normally be reached on Monday through Friday from 7:30 AM to 5:00 PM except for the first Friday of each two week period.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lynette Smith, can be reached on (703) 308-3909. The fax phone number for this group is (703) 308-4242.

The Group and/or Art Unit location of your application in the PTO will be Group Art Unit 1645. To aid in correlating any papers for this application, all further correspondence regarding this application should be directed to this

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-0196.

Vgp
January 10, 2002


LYNETTE R. F. SMITH
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER

LYNETTE R. F. SMITH
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER